

### **Remarks/Arguments**

Claims 1-20, 22, 23 and 26-29 are pending in this application, and are rejected in the Office Action of April 13, 2011. No claim amendments are presented herein. However, a listing of the pending claims in the application accompanies this response for the Examiner's convenience.

### **Re: Patentability of Claims 1-20, 22, 23, 26 and 27 under 35 U.S.C. §103(a)**

Claims 1-20, 22, 23, 26 and 27 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,698,020 issued to Zigmond et al. (hereinafter, "Zigmond") in view of U.S. Patent No. 7,051,352 issued to Schaffer (hereinafter, "Schaffer"), and further in view of U.S. Patent No. 6,029,195 issued to Herz (hereinafter, "Herz"). Applicant respectfully traverses this rejection for at least the following reasons.

Applicant first notes that independent claim 1 recites:

"A method for displaying a TV program to a viewer, comprising:  
receiving a plurality of TV programs, wherein at least some of the received TV programs compete with at least some others of the received TV programs for viewership;  
allowing the viewer to select one of the plurality of received TV programs for viewing;  
storing data indicative of the viewer selected TV program and data indicative of at least some others of the TV programs competing with the viewer selected TV program that were not selected;  
determining viewing preferences using the stored data indicative of the user selected TV program and data indicative of at least some others of the TV programs competing with the viewer selected TV program that were not selected as well as one or more known program traits and one or more associated program traits, the associated program traits being combined with other known program traits so as to **generate new program traits** representative of said viewer's degree of preference of a program according to a regression analysis of the viewing habits of the particular viewer over time; and  
controlling the programming displayed to the viewer in accordance with the viewer selection and the determined viewing preferences."  
(emphasis added)

As indicated above, independent claim 1 recites a method for displaying a TV program to a viewer. According to the claimed method, viewing preferences are determined using stored data as well as one or more known program traits and one or more associated program traits. Notably, the associated program traits are combined with other known program traits so as to **generate new program traits** representative of the viewer's degree of preference of a program according to a regression analysis of the viewing habits of the particular viewer over time. Independent claim 14 recites subject matter similar to claim 1, including the aforementioned underlined features.

None of the cited references, whether taken individually or in combination, discloses or suggests each and every feature recited by independent claims 1 and 14.

On page 5 of the final Office Action of April 13, 2011, the Examiner admits that Zigmond and Schaffer both fail to disclose, *inter alia*, the aforementioned underlined features of independent claims 1 and 14. In an attempt to remedy these admitted deficiencies of Zigmond and Schaffer, the Examiner relies on Herz.

In response, Applicant submits that Herz is unable to remedy the aforementioned admitted deficiencies of Zigmond and Schaffer. With respect to Herz, the Examiner specifically alleges:

“... User's feedback is stored in a database of user feedback information (col. 18, lines 10-21). The feedback can be explicit or passive, in which the passive feedback is inferred data from monitored user's behavior. The monitored behavior data can reveal if a user has seen an object to not (col. 18, lines 23-53). In order to estimate the user's interest for objects that the user has not seen yet, the system estimates and **generates new estimated quantities** to more closely showing [sic, show] user's preference. This estimation is performed using a regression analysis (col. 19 lines 29-col. 22 line 13) ...” (emphasis added – see pages 5-6 of the Office Action)

As indicated above, the Examiner alleges that, in Herz, the estimation of a user's interest for a media object he/she has not yet seen is performed using a regression

analysis, which generates “new estimated quantities” more closely showing the user’s preference.

In response, Applicant first notes that the cited passages of Herz mention nothing regarding a “regression analysis”. In fact, a text search indicates that the term “regression” appears nowhere within Herz (or Zigmond or Schaffer). Moreover, the “new estimated quantities” of Herz referenced above do not correspond to the claimed “new program traits” of independent claims 1 and 14. In particular, the “new estimated quantities” of Herz are simply computed values (see, for example, column 21, line 64 to column 22, line 13). In contrast, the claimed “new program traits” of independent claims 1 and 14 represent actual program traits. For example, as described on page 15, lines 5-13 of Applicant’s specification, a user may have a certain liking for any given “Seinfeld” episode, and a certain liking for any premiere sitcom being aired for the first time. However, the liking for a premiere episode of “Seinfeld” may be sufficiently large enough to require an additional (new) trait, “new Seinfeld”, to fully explain the liking for a premiere episode of “Seinfeld”. Herz clearly fails to disclose or suggest these types of “new program traits”, as recited by independent claims 1 and 14.

Accordingly, in view of the foregoing discussion, Herz clearly fails to disclose or suggest, *inter alia*, the features of: “... the associated program traits being combined with other known program traits so as to **generate new program traits** representative of said viewer’s degree of preference of a program according to a regression analysis of the viewing habits of the particular viewer over time” (emphasis added), as recited by independent claims 1 and 14. As such, Herz fails to remedy the aforementioned admitted deficiencies of Zigmond and Schaffer. Accordingly, even if the three cited references are combined, as proposed, the resulting combination still does not disclose or suggest each and every feature recited by independent claims 1 and 14.

Therefore, for at least the foregoing reasons, Applicant submits that claims 1-20, 22-23 and 26-27 are patentable under 35 U.S.C. §103(a) over the proposed

combination of Zigmond, Schaffer and Herz, and withdrawal of the rejection is respectfully requested.

**Re: Patentability of Claims 28 and 29 under 35 U.S.C. §103(a)**

Claims 28 and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Zigmond in view of Schaffer and Herz, and further in view of US. Patent Publication No. 2003/0088872 by Maissel et al. (hereinafter, "Maissel"). Applicant respectfully traverses this rejection for at least the following reasons.

Independent claim 28 defines features similar to independent claims 1 and 14 discussed above. Maissel is unable to remedy each of the deficiencies of Zigmond, Schaffer and Herz pointed out above in connection with independent claims 1 and 14. For example, Maissel also clearly fails to disclose or suggest, *inter alia*, the features of: "... the associated program traits being combined with other known program traits so as to generate new program traits representative of said viewer's degree of preference of a program according to a regression analysis of the viewing habits of the particular viewer over time", as provided by independent claim 28 and its dependent claim 29.

Accordingly, Applicant submits that claims 28 and 29 are patentable under 35 U.S.C. §103(a) over the proposed combination of Zigmond, Schaffer, Herz and Maissel, and withdrawal of the rejection is respectfully requested.

**Conclusion**

For at least the foregoing reasons, it is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intention to concede any issue with regard to any claim, except as specifically stated in this paper.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding remarks and arguments, this application is in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicant's attorney at (609) 734-6809, so that a mutually convenient date and time for a telephonic interview may be scheduled. No fee is believed due from this response. However, if a fee is due, please charge the fee to Deposit Account No. 07-0832.

Respectfully submitted,

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